

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

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In the Matter of Permit 20820 (Application 30118)

**William Hardin Trust and Jeanne Hardin Trust**

**ORDER APPROVING EXTENSION OF TIME AND AMENDING THE PERMIT**

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SOURCE: Three Unnamed Streams

COUNTY: Napa

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**WHEREAS:**

1. Permit 20820 was issued to William Hardin Trust and Jeanne Hardin Trust on January 26, 1996.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use was filed with the State Water Resources Control Board (SWRCB) on December 30, 1998.
3. The permittee has proceeded with diligence and good cause has been shown for an extension of time. Public notice of the request for an extension of time was issued on March 16, 2001 and protest issues have been resolved. Protest resolution did not result in imposition of any new permit conditions.
4. The SWRCB has determined that the petition for an extension of time does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the permit making the permittee aware of possible obligations resulting from these acts.
6. There is the possibility that buried archeological deposits may be present and accidental discovery could occur. In compliance with the California Environmental Quality Act, which states that a Lead Agency is required to make a provision for historical or unique archeological resources accidentally discovered during construction or operation of projects, a term should be included in the permit requiring notification of the Chief of the Division of Water Rights if project activities uncover any buried archeological materials.

7. The SWRCB is the Lead Agency under the California Environmental Quality Act (CEQA), Public Resources Code 21000 *et seq.* The Division of Water Rights, under delegated authority from the SWRCB, issued a Notice of Exemption for the Change Petition.
8. On March 9, 1998, the Division of Water Rights issued an "Order Amending Permit 20820 by Addition of Terms and Conditions to Conform with Order WR 96-002". These terms supercede permit conditions 20 and 21. Permit conditions 20 and 21 shall be deleted.

**NOW, THEREFORE, IT IS ORDERED THAT PERMIT 20820 IS AMENDED TO READ AS FOLLOWS:**

1. Conditions 7 and 8 of the permit are deleted and replaced with new condition 7:  
  
Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2006.  

(0000009)
2. Permit 20820 is amended to include the following Endangered Species condition:  
  
This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.  

(0000014)
3. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend

appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

4. Conditions 20 and 21 of the permit are deleted.
5. All other terms and conditions of Permit 20820 are still applicable.

Dated: SEP 25 2001

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in cursive script, appearing to read "Edward R. White", is written over the printed name.

Chief, Division of Water Rights

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**AMENDED PERMIT 20820**

Application 30118 of      **William Hardin Trust and Jeanne Hardin Trust**  
   **2371 Pope Canyon Road, St. Helena, CA 94571**

filed on April 28, 1992, has been approved by the State Water Resources Control Board (SWRCB)  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

**1. Source of water**

Source:

(1) (3) (4) Three Unnamed Streams

Tributary to:

Pope Creek thence  
Lake Berryessa thence  
Putah Creek thence  
Yolo Bypass

(6) (7) Pope Creek  
within the County of Napa

Lake Berryessa

**2. Location of point of diversion**

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Reservoir #1; North 354,050 feet and East 1,888,700 feet	NW ¼ of NW ¼	14	9N	5W	MD
Reservoir #3; North 353,600 feet and East 1,885,750 feet	NW ¼ of NE ¼	15*	9N	5W	MD
Reservoir #4; North 352,800 feet and East 1,883,450 feet	SW ¼ of NW ¼	15*	9N	5W	MD
Diversion to Offstream Storage: (6) North 354,950 feet and East 1,885,750 feet	SW ¼ of SE ¼	10	9N	5W	MD

(7) North 354,800 feet and East 1,887,650 feet	SE ¼ of SE ¼	10	9N	5W	MD
Offstream Storage: Reservoir #2	SE ¼ of NE ¼	15*	9N	5W	MD
Reservoir #5	SE ¼ of SE ¼	15*	9N	5W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Stockwatering						
Recreational	Reservoir #1 within NW ¼ of NW ¼	14	9N	5W	MD	
	Reservoir #2 within SE ¼ of NE ¼	15*	9N	5W	MD	
	Reservoir #3 within NW ¼ of NE ¼	15*	9N	5W	MD	
	Reservoir #4 within SW ¼ of NW ¼	15*	9N	5W	MD	
	Reservoir #5 within SE ¼ of SE ¼	15*	9N	5W	MD	
Domestic						
Frost Protection						
Heat Control						
Irrigation	SW ¼ of SW ¼	11	9N	5W	MD	2
	NW ¼	14*	9N	5W	MD	36
	SW ¼	14*	9N	5W	MD	61
	NW ¼	15*	9N	5W	MD	18
	NE ¼	15*	9N	5W	MD	80
	SE ¼	15*	9N	5W	MD	32
	NW ¼ OF SW ¼	15*	9N	5W	MD	8

	NE ¼ OF NE ¼	22*	9N	5W	MD	5
	NW ¼ OF NW ¼	23*	9N	5W	MD	16
					TOTAL	258

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 245 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year as follows: 49 acre-feet per annum in Reservoir #1, 49 acre-feet per annum in Reservoir #2, 49 acre-feet per annum in Reservoir #3, 49 acre-feet per annum in Reservoir #4, and 49 acre-feet per annum in Reservoir #5.

(0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

The maximum rate of diversion to offstream storage shall not exceed 10 cubic feet per second.

(0000005J)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2006.

(0000009)

7. The SWRCB reserves jurisdiction to impose conditions to conform this permit to SWRCB policy on use of water for frost protection. Action by the SWRCB will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

8. Permittee shall install and maintain an outlet pipe of adequate capacity in the dams for Reservoirs #1, #3, and #4 as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes, or alternative facility, to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043AP)

9. For the protection of fish and wildlife, permittee shall during the period from November 1 through May 31 bypass a minimum of 10 cubic feet per second. The total streamflow shall be bypassed whenever it is less than the designated amount, below the Points of Diversion located on Pope Creek.  
(0140060)
10. Measurement of bypass flow shall take place at the Juliana Vineyard measuring device established pursuant to Application 24045 and located within the SW ¼ of the SE ¼ of projected Section 9, T9N, R5W, MDB&M. No water shall be diverted or used by the permittee until a flow of 20 cubic feet per second (a stage reading of 1.8 feet) is bypassing the Juliana gage.  
(0060062)
11. Prior to diversion and use of water under this permit, permittee shall install screening devices on pumps diverting water from Pope Creek. The design of said screens shall be approved prior to construction by the Department of Fish and Game, and notice of approval submitted to the Chief, Division of Water Rights.  
(0400500)
12. No construction shall be commenced and no water shall be used under this permit in areas identified as erosion hazard areas in Napa County Ordinances 991 and 998 until permittee has obtained all necessary County approvals. Copies of erosion control plans and County approvals shall be forwarded to the Department of Fish and Game and the Chief, Division of Water Rights.  
(0400500)
13. Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:
  - (1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.
  - (2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.
  - (3) Within one year of the construction of the reservoirs covered by this permit, permittee shall have the capacity of the reservoirs surveyed by a registered civil engineer or licensed surveyor. A copy of the survey and area-capacity curves shall be provided to the watermaster and the SWRCB.

(4) Permittee shall install and properly maintain in Reservoir #1, #3 and #4 a staff gage, satisfactory to the watermaster and the SWRCB, for the purpose of determining water levels in the reservoir. Permittee shall record the staff gage readings on October 1 of each year and April 30 of the succeeding year, or such other period as may be specified by the watermaster with written notice to the permittee.

Permittee shall install and maintain a device, satisfactory to the SWRCB, capable of measuring water diverted to offstream storage in Reservoirs #2 and #5 under this permit. Satisfactory devices shall include: For Pumping Stations: (1) In-line flow meter having instantaneous and total flow reading capability, or (2) Proof of a pump test performed within the last 5 years together with official monthly power consumption records for the electric meter serving the pump. For Gravity Diversions: A weir, flume, or other flow measuring device that is properly installed, or a flow-rating curve established by volumetric measurements.

Permittee shall maintain monthly records of diversion to offstream storage from October 1 of each year to April 30 of the succeeding year, or such other period as may be specified with written notice to the permittee by the watermaster.

(5) Permittee shall report to the watermaster ~~annually~~ all diversions under this permit by September 1 of each year on forms approved by the watermaster.

(6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.

(7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.

(8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order

- a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority



- b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous five-year average diversion, in reverse order of priority.
- c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage

(10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.

(12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.

(13) Solely for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is 245 acre-feet per annum as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated, and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15, Exhibit E)

Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

The State Water Resources Control Board (SWRCB) shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this permit to delete, revise, amend, or adopt new terms

or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for hearing.

(0000012)  
(0220087)

14. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

15. The archeological site identified as CA-NAP-513 shall not be impacted by any of the developments authorized under this permit. The site shall be excluded from the proposed project Place of Use (i.e. irrigated vineyards and hay crops) and the reservoir proposed at Point of Diversion #3 shall be moved or redesigned if it cannot be constructed without impacting CA-NAP-513. Developments at the location of CA-NAP-513 may be allowed following the completion of a cultural resource testing and/or mitigation program approved by the Chief, Division of Water Rights.

(0380500)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE  
SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued. (0000010)

C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial

effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

E. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

F. Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(0000015)

G. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

Dated: **SEP 25 2001**

STATE WATER RESOURCES CONTROL BOARD

A handwritten signature in cursive script, appearing to read "Edward C. Anton".

Edward C. Anton, Chief  
Division of Water Rights

**STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD**

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**AMENDED PERMIT 20820**

Application 30118 of **William Hardin Trust and Jeanne Hardin Trust**  
**2371 Pope Canyon Road, St. Helena, CA 94571**

filed on April 28, 1992, has been approved by the State Water Resources Control Board (SWRCB)  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

**1. Source of water**

Source:

(1) (3) (4) Three Unnamed Streams

Tributary to:

Pope Creek thence

Lake Berryessa thence

Putah Creek thence

Yolo Bypass

(6) (7) Pope Creek

within the County of Napa

Lake Berryessa

**2. Location of point of diversion**

By California Coordinate System in Zone 2 Storage and Rediversion:	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
Reservoir #1; North 354,050 feet and East 1,888,700 feet	NW ¼ of NW ¼	14	9N	5W	MD
Reservoir #3; North 353,600 feet and East 1,885,750 feet	NW ¼ of NE ¼	15*	9N	5W	MD
Reservoir #4; North 352,800 feet and East 1,883,450 feet	SW ¼ of NW ¼	15*	9N	5W	MD
Diversion to Offstream Storage: (6) North 354,950 feet and East 1,885,750 feet	SW ¼ of SE ¼	10	9N	5W	MD

Diversion to Offstream Storage					
(6) North 200 feet and West 2,350 feet from SE corner of Section 10	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	10	9N	5W	MD
(7) North 100 feet and West 400 feet from SE corner of Section 10	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	10	9N	5W	MD
Offstream Storage					
(2) Reservoir #2	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	projected fractional 15	9N	5W	MD
(5) Reservoir #5	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	projected fractional 15	9N	5W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Stockwatering						
Recreational	Reservoir #1 within NW $\frac{1}{4}$ of NW $\frac{1}{4}$	fractional 14	9N	5W	MD	
	Reservoir #2 within SE $\frac{1}{4}$ of NE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	
	Reservoir #3 within NW $\frac{1}{4}$ of NE $\frac{1}{4}$	fractional 15	9N	5W	MD	
	Reservoir #4 within SW $\frac{1}{4}$ of NW $\frac{1}{4}$	projected fractional 15	9N	5W	MD	
	Reservoir #5 within SE $\frac{1}{4}$ of SE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	
Domestic						
Frost Protection						
Heat Control						

Irrigation	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	11	9N	5W	MD	2
	NW $\frac{1}{4}$	projected fractional 14	9N	5W	MD	36
	SW $\frac{1}{4}$	projected fractional 14	9N	5W	MD	61
	NW $\frac{1}{4}$	projected fractional 15	9N	5W	MD	18
	NE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	80
	SE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	32
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	projected fractional 15	9N	5W	MD	8
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	projected 22	9N	5W	MD	5
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	projected 23	9N	5W	MD	16
					TOTAL	258

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 245 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year as follows: 49 acre-feet per annum in Reservoir #1, 49 acre-feet per annum in Reservoir #2, 49 acre-feet per annum in Reservoir #3, 49 acre-feet per annum in Reservoir #4, and 49 acre-feet per annum in Reservoir #5,

(0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 10 cubic feet per second.

(000005J)



6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 1998. (0000008)
8. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000020)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dams for Reservoirs #1, #3, and #4 as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer.

(0050043)

15. For the protection of fish and wildlife, permittee shall during the period November 1 through May 31 bypass at all times a minimum of 10 cubic feet per second, or the total natural streamflow whenever it is less than the designated amount, below the Points of Diversion located on Pope Creek.

(0140060)

16. Measurement of bypass flow shall take place at the Juliana Vineyard measuring device established pursuant to Application 24045 and located within the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of projected Section 9, T9N, R5W, MDB&M. No water shall be diverted or used by the permittee until a flow of 20 cubic feet per second (a stage reading of 1.8 feet) is bypassing the Juliana gage.

(0060062)

17. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance cost of any required facility are the responsibility of the permittee.

(0000063)

18. Prior to diversion and use of water under this permit, permittee shall install screening devices on pumps diverting water from Pope Creek. The design of said screens shall be approved prior to construction by the Department of Fish and Game, and notice of approval submitted to the Chief, Division of Water Rights.

(0400500)

19. No construction shall be commenced and no water shall be used under this permit in areas identified as erosion hazard areas in Napa County Ordinances 991 and 998 until permittee has obtained all necessary County approvals. Copies of erosion control plans and County approvals shall be forwarded to the Department of Fish and Game and the Chief, Division of Water Rights.

(0400500)

20. Permittee is hereby put on notice that there may be years when storage and diversion of water to offstream storage under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in State Water Resources Control Board Decision 869. During such years, unless replacement water is provided on an exchange basis, permittee:

(1) shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa and

(2) shall not make any diversion to offstream storage during the portion of such years that, in the absence of permittee's diversion, hydraulic continuity would exist between the diversion point and Lake Berryessa, and at such times, shall allow all streamflow at the diversion works to pass undiminished to the downstream channel.

Nothing in this condition, however, shall preclude permittee from diverting water under any prior right.

(0220088)

(0230088)

21. The State Water Resources Control Board reserves jurisdiction over this permit to impose or modify conditions to conform this permit to subsequent Board actions on the reservation of water established for the watershed upstream from Lake Berryessa in Board Decision 869. Action by the Board under this term will be taken only after notice to interested parties and opportunity for hearing.

(0000600)

22. The archeological site identified as CA-NAP-513 shall not be impacted by any of the developments authorized under this permit. The site shall be excluded from the proposed project Place of Use (i.e. irrigated vineyards and hay crops) and the reservoir proposed at Point of Diversion #3 shall be moved or redesigned if it cannot be constructed without impacting CA-NAP-513. Developments at the location of CA-NAP-513 may be allowed following the completion of a cultural resource testing and/or mitigation program approved by the Chief, Division of Water Rights. Should any evidences of previously unrecorded cultural resources be discovered during project activities, those activities shall cease within 100 feet of the discovery until the significance of the find can be evaluated by a professional archeologist, and the appropriate mitigation measures (as required by the Chief, Division of Water Rights) completed. (0380500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: January 26, 1996

STATE WATER RESOURCES CONTROL BOARD

*Harold R. Beniger*  
for Chief, Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 30118 Permit 20820 License                     

**ORDER AMENDING PERMIT  
BY ADDITION OF TERMS AND CONDITIONS  
TO CONFORM WITH ORDER WR 96-002**

**WHEREAS:**

1. Permit 20820 was issued William Hardin Trust and Jeanne Hardin Trust on January 26, 1996 pursuant to Application 30118.
2. Permittee is a signatory to the March 10, 1995 Condition 12 Settlement Agreement (Agreement) between U.S. Bureau of Reclamation, Solano County Water Agency, and nearly all post-1945 appropriative water right holders in the Putah Creek watershed above Monticello Dam.
3. Order WR 96-002 was adopted by the State Water Resources Control Board on February 27, 1996.
4. Both the Agreement and the Order subject the permit to the following conditions.

**NOW, THEREFORE, IT IS ORDERED THAT THE FOLLOWING CONDITIONS BE  
ADDED TO THE PERMIT:**

Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.

(2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.



Diversion to Offstream Storage					
(6) North 200 feet and West 2,350 feet from SE corner of Section 10	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	10	9N	5W	MD
(7) North 100 feet and West 400 feet from SE corner of Section 10	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	10	9N	5W	MD
Offstream Storage					
(2) Reservoir #2	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	projected fractional 15	9N	5W	MD
(5) Reservoir #5	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	projected fractional 15	9N	5W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Stockwatering						
Recreational	Reservoir #1 within NW $\frac{1}{4}$ of NW $\frac{1}{4}$	fractional 14	9N	5W	MD	
	Reservoir #2 within SE $\frac{1}{4}$ of NE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	
	Reservoir #3 within NW $\frac{1}{4}$ of NE $\frac{1}{4}$	fractional 15	9N	5W	MD	
	Reservoir #4 within SW $\frac{1}{4}$ of NW $\frac{1}{4}$	projected fractional 15	9N	5W	MD	
	Reservoir #5 within SE $\frac{1}{4}$ of SE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	
Domestic						
Frost Protection						
Heat Control						

Irrigation	SW $\frac{1}{4}$ of SW $\frac{1}{4}$	11	9N	5W	MD	2
	NW $\frac{1}{4}$	projected fractional 14	9N	5W	MD	36
	SW $\frac{1}{4}$	projected fractional 14	9N	5W	MD	61
	NW $\frac{1}{4}$	projected fractional 15	9N	5W	MD	18
	NE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	80
	SE $\frac{1}{4}$	projected fractional 15	9N	5W	MD	32
	NW $\frac{1}{4}$ of SW $\frac{1}{4}$	projected fractional 15	9N	5W	MD	8
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	projected 22	9N	5W	MD	5
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	projected 23	9N	5W	MD	16
					TOTAL	258

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 245 acre-feet per annum to be collected from November 1 of each year to May 31 of the succeeding year as follows: 49 acre-feet per annum in Reservoir #1, 49 acre-feet per annum in Reservoir #2, 49 acre-feet per annum in Reservoir #3, 49 acre-feet per annum in Reservoir #4, and 49 acre-feet per annum in Reservoir #5,

(0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed 10 cubic feet per second.

(000005J)



6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 1998. (0000008)
8. Complete application of the water to the authorized use shall be made by December 31, 1999. (0000009)
9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.
- The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.
- The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dams for Reservoirs #1, #3, and #4 as near as practicable to the bottom of the natural stream channel in order that water entering the reservoirs which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipes to the Chief of the Division of Water Rights for approval. Before storing water in the reservoirs, permittee shall furnish evidence which substantiates that the outlet pipes have been installed in each dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. For the protection of fish and wildlife, permittee shall during the period November 1 through May 31 bypass at all times a minimum of 10 cubic feet per second, or the total natural streamflow whenever it is less than the designated amount, below the Points of Diversion located on Pope Creek. (0140060)

16. Measurement of bypass flow shall take place at the Juliana Vineyard measuring device established pursuant to Application 24045 and located within the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of projected Section 9, T9N, R5W, MDB&M. No water shall be diverted or used by the permittee until a flow of 20 cubic feet per second (a stage reading of 1.8 feet) is bypassing the Juliana gage. (0060062)

17. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance cost of any required facility are the responsibility of the permittee. (0000063)

18. Prior to diversion and use of water under this permit, permittee shall install screening devices on pumps diverting water from Pope Creek. The design of said screens shall be approved prior to construction by the Department of Fish and Game, and notice of approval submitted to the Chief, Division of Water Rights. (0400500)

19. No construction shall be commenced and no water shall be used under this permit in areas identified as erosion hazard areas in Napa County Ordinances 991 and 998 until permittee has obtained all necessary County approvals. Copies of erosion control plans and County approvals shall be forwarded to the Department of Fish and Game and the Chief, Division of Water Rights. (0400500)

20. Permittee is hereby put on notice that there may be years when storage and diversion of water to offstream storage under this permit will not be within the reservation of water established for the watershed upstream from Lake Berryessa in State Water Resources Control Board Decision 869. During such years, unless replacement water is provided on an exchange basis, permittee:

(1) shall release water collected to storage under this permit during the preceding collection season at the maximum practical rate to flow into Lake Berryessa and

(2) shall not make any diversion to offstream storage during the portion of such years that, in the absence of permittee's diversion, hydraulic continuity would exist between the diversion point and Lake Berryessa, and at such times, shall allow all streamflow at the diversion works to pass undiminished to the downstream channel.

Nothing in this condition, however, shall preclude permittee from diverting water under any prior right. (0220088)  
(0230088)

21. The State Water Resources Control Board reserves jurisdiction over this permit to impose or modify conditions to conform this permit to subsequent Board actions on the reservation of water established for the watershed upstream from Lake Berryessa in Board Decision 869. Action by the Board under this term will be taken only after notice to interested parties and opportunity for hearing. (0000600)

22. The archeological site identified as CA-NAP-513 shall not be impacted by any of the developments authorized under this permit. The site shall be excluded from the proposed project Place of Use (i.e. irrigated vineyards and hay crops) and the reservoir proposed at Point of Diversion #3 shall be moved or redesigned if it cannot be constructed without impacting CA-NAP-513. Developments at the location of CA-NAP-513 may be allowed following the completion of a cultural resource testing and/or mitigation program approved by the Chief, Division of Water Rights. Should any evidences of previously unrecorded cultural resources be discovered during project activities, those activities shall cease within 100 feet of the discovery until the significance of the find can be evaluated by a professional archeologist, and the appropriate mitigation measures (as required by the Chief, Division of Water Rights) completed. (0380500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

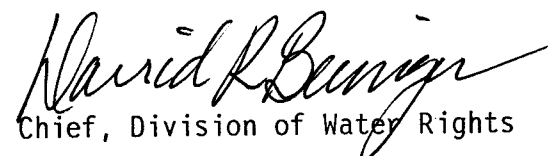
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: January 26, 1996

STATE WATER RESOURCES CONTROL BOARD

for   
Chief, Division of Water Rights